IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 440 OF 2006

M/s Jayesh N. Sonpal ... Applicant.
V/s.
M/s Pankaj Extrusions Ltd.& ors... Respondents.

Shri Jayesh Bhatt for the applicant.

Shri Y.M. Nakhwa, AOO for the State

CORAM: S.C.DHARMADHIKARI, J.

DATED: 21.12.2006.

P.C.:

. Heard Shri Bhatt appearing for the applicant.

2. Heard forthwith. The respondent No.1 has been served but neither they have been appearing nor they have engaged an Advocate.

3. Considering the limited controversy,the matter is taken up for hearing forthwith. The applicant is the original appellant in Criminal Appeal No. 677/2006. He was in appeal aggrieved by order passed by the Learned Metropolitan Magistrate, Mumbai, dated 28th July 2006 in CC No. 236/SS/2005 of conviction and sentence under section 138 of the Negotiable Instruments Act. Sentence is of Simple Imprisonment for 3 months and to pay a fine of Rs. 15 lakhs, out of which

Rs.1 lakh is to be paid to the complainant.

4. The applicant applied for suspension of the sentence during the pendency of the appeal. The applicant requests that suspension of his sentence was granted but he was directed to deposit a sum of Rs. 7 lakhs.

5. The applicant could not deposit the said amount and consequently sentence was not suspended. In these circumstances, he could have been taken into custody, but since he suffered a paralytic stroke and was hospitalised, he has preferred this application renewing prayer for suspension of sentence.

6. On the earlier occasion I had directed the notice to be issued to the original complainant-respondent No.1, provided the applicant shows his bonafides and deposits before the lower appellate Court some amount. Shri Bhatt after taking instructions made a statement that the applicant/appellant would deposit a sum of Rs. 3.5 lakhs in the lower appellate Court and produce proof in that behalf.

7. Shri Bhatt states that the amount is deposited. Considering that the applicant was

hospitalised on account of ailment and now that he has deposited a sum of Rs. 3.5 lakhs in the lower appellate Court, interest of justice would be subserved if sentence imposed by the trial Court is suspended during the pendency of the appeal. Accordingly, applicant/appellant would be enlarged on bail on the same terms and conditions but with fresh bail bond.

8. The lower appellate Court is directed to dispose of the pending appeal so also pass appropriate order with regard to amount deposited by the applicant in the lower appellate Court.

9. Revision application is allowed in the above terms.

10. Certified copy expedited.

(S.C.DHARMADHIKARI, J.)